

RESPONSE

Plaintiffs Martin and Helen Yack submit this brief response to Defendant Washington Mutual Bank's Request For Administrative Relief From Responding To Plaintiffs' Amended Complaint. Plaintiffs do not believe that the letter submitted by counsel was misleading, directly or by omission. The letter sought to explain Plaintiffs failure to appear at the Order To Show Cause hearing the Court conducted on April 3, 2008. Plaintiffs did not seek to justify their failure to appear on their pro se status, but counsel sought to "apologize for the oversight and the resulting waste of the Court's time and resources." Exhibit A to the Declaration of James F. McCabe in Support of Defendant Washington Mutual Bank's Request For Administrative Relief From Responding To Plaintiffs' Amended Complaint.¹

A cursory examination of the complaints filed in this case reveals that counsel assisted the Yacks in filing their complaint. Plaintiffs could not have concealed this fact from the Court (or the defendants who were contemporaneously served by fax with counsel's April 4 letter to the Court).

The letter simply explains that counsel was unaware of the Order To Show Cause hearing, apologizes for counsel's "oversight," but points out that Plaintiffs' have fully complied with the federal rules governing service, which Washington Mutual Bank apparently concedes.

Needless to say, Plaintiffs stand ready to comply with any further inquiry by the Court given the serious allegation by Washington Mutual Bank.² Plaintiffs, however, believe the Bank is seeking a windfall from what is essentially a matter between Plaintiffs and the Court. Washington Mutual Bank was not prejudiced in any way by Plaintiffs' failures to appear (for

¹ The April 4 letter did not seek to justify his failure to consult the docket sheet or Plaintiffs failure to attend the case management conference.

² Mr. Grobman is currently on vacation and is unavailable to submit a declaration next week. Plaintiffs respectfully request the Court not order the filing of any declarations until after he returns.

1 which counsel apologized), but supposedly seeks to “protect” the integrity of the Court.³ Again,
2 Plaintiffs apologize for “oversight and the resulting waste of the Court’s time and resources.”

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4 Respectfully submitted,

5 Dated:

6 DEAN D. PAIK
7 COHEN & PAIK LLP

8
9 By /s/ Dean D. Paik
10 DEAN D. PAIK

11 Attorneys for HELEN and MARTIN YACK on
12 behalf of themselves and all others similarly
13 situated
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22 ³ Apparently, Washington Mutual Bank delayed two weeks before reporting this “serious”
23 challenge to the integrity of the Court, but only chose to do so when Plaintiffs declined to
24 dismiss their amended complaint. Apparently, the challenge to the integrity of the Court only
25 became serious when Plaintiffs refused to dismiss their action.
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